REMARKS

Claims 18-35 are pending in the application. Claims 18-35were rejected under the judicially created doctrine of obvious-type double patenting, as described on pages 2-3 of the Office Action. Claims 18-35 were rejected under 35 U.S.C. §103(a), as described on pages 4-5 of the Office Action. Claims 18-35 were rejected under 35 U.S.C. §102(b), or in the alternative, 35 U.S.C. § 103(a), as described on pages 5-6 of the Office Action. Claim 18 is the only independent claim.

Page 6 of the Office Action indicates that "labeling the section 'Background Art' and extensive use of the words 'conventional' and 'conventionally' is sufficient to concede the subject matter to be prior art." Applicants respectfully traverse this assertion. As specifically discussed in MPEP § 2129, admissions by Applicants constitute prior art when "Applicants state that something is **prior art**." In the present case, the term "prior art" was not used in connection with pages 1-4 of the specification. Furthermore, MPEP § 2129 indicates that a Jepson claim can result in an **implied** admission that the preamble is prior art. In the present case, the claims are not written in a Jepson-type format. Accordingly, it is respectfully submitted that the disclosure on pages 1-4 of the specification cannot even be considered an implied admission of prior art.

In light of the above discussion, it is respectfully submitted that use of the terms "Background Art", "conventional" and "conventionally" are not sufficient to concede the subject matter to be prior art.

Attached hereto is a timely filed Terminal Disclaimer in compliance with 37 C.F.R. § 1.321. Accordingly, Applicants respectfully request that the rejection of claims 18-35 under the judicially created doctrine of obvious-type double patenting be withdrawn.

Applicants respectfully submit that claims 18-35 are patentable over the prior art of record for the following reasons.

In the chromatography measuring device of the present invention, with the exception of the top surfaces of the upstream end and the downstream end, the remaining regions of the chromatography specimen are covered with a liquid-impermeable sheet. In other words, other than the top surfaces of the upstream end and the downstream end, there is no uncovered part of the chromatography specimen of the present invention.

In accordance with the above-mentioned construction, a liquid sample applied to the uncovered upstream end permeates toward the downstream end in chromatography. Then, in the part covered with the liquid-impermeable sheet, the sample extends toward the downstream end without evaporating. When the liquid sample reaches the uncovered portion of the downstream end, water of the liquid sample evaporates sufficiently to be dried at the top surface of the downstream end. Therefore, no water-absorbing part for absorbing the sample is required at the downstream part, which results in reduction of the constituent members. The present invention thereby provides a chromatography measuring device having a simplified process of fabricating the specimen, which decreases costs and concurrently increases sensitivity and performance.

The chromatography measuring device of claim 18 requires that "said liquid-impermeable sheet material does not cover said top surface of said first end region and said top surface of second end region," that "said liquid-impermeable sheet material adherently covers a surface other than said top surface of said first end region and said top surface of said second end region," and that "there is no part for absorbing the sample at said top surface of said second end region."

It is respectfully submitted that neither Nakaya, Mochizuki nor Takahashi, either singly or in combination, teaches the above-identified limitations.

The bottom of page 6 of the Office Action indicates that the Applicants urge that the prior art of record do "not disclose two regions that the liquid-impermeable sheet material does not cover." The Office Action then further indicates that each of Nakaya, Mochizuki and Takahashi disclose regions that the liquid-impermeable sheet material does not cover.

It is respectfully submitted that the Office Action inaccurately paraphrases the Applicants remarks submitted in the December 30th Response, which leads to an inaccurate conclusion that each of the cited prior arts teaches that which is recited in independent claim 18.

In particular, as discussed above, claim 18 requires that the liquid-impermeable sheet material not cover the top surface of the first **end** of region and the top surface of the second **end** region.

It is the particular location of the uncovered portions of the chromatography measuring device that provides benefits over prior art devices, as discussed above. Further, as discussed in the December 30th Response, neither Nakaya, Mochizuki nor Takahashi teach such limitations.

In particular, Nakaya provides an opened space 9. However, as illustrated in the figures of the reference, the device of Nakaya fails to provide an uncovered top surface of a second end region, as required in independent claim 18.

Mochizuki, similar to Nakaya, provides an air vent opening 9. However, as illustrated in the figures of Mochizuki, air vent 9 is not provided at a top surface of the second end region, as required in independent claim 18.

Similar to both Nakaya and Mochizuki as discussed above, Takahashi additionally provides windows 8 and 9. However, as illustrated in the figures of Takahashi, there is not uncovered to surface of a second end region, as required in independent claim 18.

Page 7 of the Office Action asserts that the "remarks urge patentability based upon the admission of a waved absorption part." The cited portion of the Office Action then further indicates that the "open format of the claims does not preclude the use of a water absorption part." It is respectfully submitted that the patentability of the present invention is not based on the admission of a water absorption part. On the contrary, the patentability of the present invention is based on that fact that none of the prior art, either singly, or in combination teaches a liquid-impermeable sheet material that does not cover a top surface of a first end region and a top surface of a second end region of the chromatography measuring device. It is because of the particular construction of the present invention that provides a benefit that a water absorption part is not needed. Nevertheless, the benefit is based on the recited structure.

It is clear that neither Nakaya, Mochizuki nor Takahashi teaches that a liquid-impermeable sheet material does not cover **a top surface of a first end region and a top surface of a second end region**. Accordingly, a combination of the teachings of Nakaya, Mochizuki and Takahashi additionally fails to teach a liquid-impermeable sheet material not covering a top surface of a first end region and a top surface of a second end region.

Therefore, it is respectfully submitted that a combination of the teachings of Nakaya, Mochizuki and Takahashi fail to teach: a liquid-impermeable sheet material that does not cover a top surface of a first end region and a top surface of second end region, the liquid-impermeable sheet

material adherently covering a surface other than the top surface of the first end region and the top surface of the second end region, as required in independent claim 18.

In light of the above discussion, it is respectfully submitted that claim 18 and dependent claims 19-35 are patentable over the prior art of record and request that the outstanding rejections of claim 18-35 be withdrawn.

Having fully and completely responded to the Office Action, Applicants submit that all of the claims are now in condition for allowance, an indication of which is respectfully solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

Respectfully submitted,

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